
OLR Bill Analysis

sHB 5498 (as amended by House "A")*

AN ACT CONCERNING CHANGES TO THE FUNERAL SERVICES STATUTES.

SUMMARY:

This bill allows people to pay for funeral service contracts by assigning the death benefit under a life insurance policy. It exempts contracts that are funded in this way from the general requirement that funeral service establishments ("funeral homes") deposit into escrow the money or securities they receive under contracts.

The bill allows a legal representative of the beneficiary to authorize the transfer of an irrevocable funeral service contract from one funeral home to another. Current law allows only the beneficiary to authorize a transfer. The bill also makes a technical change specifying that the law's definition of funeral service contract applies to irrevocable funeral service contracts. This specifies that the law's requirements for funeral service contracts, and penalties for violations of such requirements, also apply to irrevocable contracts.

The bill requires death certificates filed in paper form to be filed within five business days, rather than five calendar days, after death.

It requires funeral homes to maintain the original, signed cremation authorization documentation form for at least six years, rather than at least 20 years, after it was signed by the person with custody and control of the deceased person's remains. This change conforms to another provision in existing law requiring funeral homes to keep cremation authorizations and several other documents for at least six years.

The law prohibits the Department of Social Services from counting up to \$1,800 in burial funds when determining eligibility for the state supplement and temporary family assistance programs. Burial funds

may be in the form of, among other things, the face value of life insurance policies if the cash surrender value is excluded. The bill specifies that the value must be excluded through the irrevocable transfer of the policy's ownership to a trust.

The bill also makes minor, technical, and conforming changes.

*House Amendment "A" (1) changes the definition of funeral service contract by including the reference to assignments of life insurance benefits as part of the definition itself, rather than as part of the "delivery of securities," (2) adds the provisions exempting such contracts from escrow requirements, (3) changes the effective date for some sections, and (4) makes minor, technical, and conforming changes.

EFFECTIVE DATE: Upon passage, except the provisions on death certificates and cremation authorizations are effective October 1, 2012.

LIFE INSURANCE BENEFIT AS PAYMENT FOR FUNERAL SERVICE CONTRACT

The bill allows people to pay for funeral service contracts by assigning the death benefit under a life insurance policy. Currently, these types of payment arrangements do not fall within the law's definition of funeral service contract.

Current law defines a funeral service contract as a contract that requires the payment of money or the delivery of securities in exchange for the final disposition of a dead human body, including funeral, burial, or other services, or the furnishing of personal property or funeral merchandise in connection with such disposition, where the use or delivery of such services, property, or merchandise is not required immediately. Such contracts are sometimes referred to as "prepaid" or "preneed" funeral service contracts because the person is paying for services that will be provided in the future.

The bill adds to this definition contracts that require the assignment of a death benefit payable under an individual or group life insurance policy in exchange for such a final disposition.

Exemption from Escrow Requirements

Current law requires funeral homes to deposit any money or securities they receive under a funeral service contract in an escrow account, and sets various related requirements. These requirements include, among other things, that (1) the funeral home appoint an escrow agent to administer the account; (2) account assets be invested only in specified ways; (3) money in the account be removed only as specified by law; and (4) parties to the contract receive annual statements. There are also various provisions concerning how the funds must be managed, including how funds must be paid out when the funeral home does or does not perform its obligations under the contract.

Under the bill, funeral service contracts funded through an assignment of a death benefit payable under a life insurance policy are exempt from these escrow-related requirements.

As a corollary, the bill also exempts contracts funded through an assignment of a life insurance policy's death benefit from the law's requirement that funeral service contracts contain various provisions related to the escrow provisions.

The bill makes related conforming changes. For example, the law requires funeral homes to keep a list of the names and addresses of the escrow agents for their contracts; the bill requires them to also keep a list of the names and addresses of insurance companies issuing life insurance policies related to their contracts.

DEADLINE FOR FILING DEATH CERTIFICATE

Current law requires that death certificates be completed in their entirety and filed with the registrar of vital statistics in the town where the death occurred within (1) five days after death if filing a paper certificate and (2) three days after death if filing through an electronic death registry system, to obtain a burial permit. The bill specifies that the deadline for filing paper certificates is five business days, not five calendar days. Electronic filings must be completed within three calendar days as under current law.

BACKGROUND

Related Bill

Among other things, sSB 412 (File 340) (1) requires the Department of Consumer Protection (DCP) commissioner to establish a guaranty fund for the payment of certain claims against funeral homes; (2) requires funeral homes to provide a copy of DCP's funeral service contract fact sheet to anyone who inquires in person about purchasing a funeral service contract or purchases such a contract, before signing it; and (3) makes a technical change to the definition of funeral service contract.

COMMITTEE ACTION

Public Health Committee

Joint Favorable Substitute

Yea 26 Nay 0 (03/26/2012)